

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

JAMES A. DELANIS,)	
)	
Plaintiff,)	
)	
v.)	Civil No. 3:22-cv-00469
)	Judge Eli J. Richardson
METROPOLITAN GOVERNMENT OF)	Magistrate Judge Jeffery S. Frensley
NASHVILLE AND DAVIDSON)	
COUNTY; ROBERT J. MENDES,)	Jury Demand
individually and in his capacity as a)	
member of the METRO COUNCIL; and)	
BAKER, DONELSON, BEARMAN,)	
CALDWELL & BERKOWITZ, PC,)	
Defendants.)	

**BAKER, DONELSON, BEARMAN, CALDWELL & BERKOWITZ, PC’S
MOTION TO CONTINUE ANSWER DEADLINE**

The Metropolitan Government of Nashville and Davidson County (“Metro Nashville”) and Bob Mendes, in his official and individual capacities, (collectively, “Metro Defendants”), have moved to continue the answer deadline pending the outcome of Mendes’s contemporaneously-filed qualified immunity appeal. Baker, Donelson, Bearman, Caldwell & Berkowitz, PC (“Baker Donelson”) joins the Metro Defendants’ motion and adopts it in full. In the coming days, Baker Donelson intends to file a Notice of Appeal with regard to the Court’s order denying Baker Donelson’s Motion to Dismiss on grounds of qualified immunity.

Mendes’ appeal and Baker Donelson’s appeal will put the issue of the sufficiency of the Amended Complaint in this action before the Sixth Circuit. Moreover, as the Metro Defendants have correctly noted, qualified immunity is an immunity from suit, not simply an immunity from liability. *Everson v. Leis*, 556 F.3d 484, 491 (6th Cir. 2009). Thus, if Baker Donelson is required

to answer the Amended Complaint and continue litigating the § 1983 claims against it while that appeal is pending, Baker Donelson will lose much of the benefit of qualified immunity if it is successful on appeal.

Accordingly, Baker Donelson requests the Court to continue the deadline for Baker Donelson to respond to the Amended Complaint pending the outcome of Baker Donelson's and Mendes's appeals. The Metro Defendants do not oppose this motion, and Plaintiff has stated that he opposes the motion.

/s/ Robert E. Boston

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this the 20th day of October, 2023, a true and correct copy of the foregoing document was electronically filed with the United States District Court for the Middle District of Tennessee using the Court's Electronic Case Filing (ECF) system, which will serve all parties below as indicated on the electronic filing notice to receive service in this manner.

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